

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Crane Co., et al.,
Plaintiff,

vs.

United States of America,
Defendant.

No. CV 03-2226-PHX-ROS (lead)
CV 04-1400-PHX-ROS (consolidated)

ORDER

On June 21, 2006 Plaintiff United States of America filed an Unopposed Motion To Enter the Partial Consent Decree ("Decree") (Doc. #75) that was submitted on April 11, 2006 (Doc. #71, 72).¹

¹ Pursuant to the terms of Paragraph 136 of the Partial Consent Decree, and in accordance with Section 122(d)(2) of Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7, the United States of America published in the *Federal Register* notice of its lodging of the Partial Consent Decree for purposes of soliciting public comment, and requested that the Court refrain from considering entry of the Decree during the notice period of no less than thirty days. See Notice of Lodging of Partial Consent Decree (Doc. #71). The United States received two comment letters submitted by the Cities of Goodyear and Avondale. See Motion For Entry of Partial Consent Decree p. 2. The comment letters do not oppose entry of the Decree, but rather "seek assurances that the Cities will be kept informed regarding the implementation of the Site remedy under the settlement." Id.

1 For the reasons set forth below, the Court will grant the Motion and enter the Decree.

2 The Court adopts the legal standard cited by the parties in the Motion For Entry of the
3 Decree, which is incorporated herein. Thus, so long as the consent decree is "reasonable,
4 fair, and consistent with the purposes that [the statute] is intended to serve," it shall be
5 entered. United States v. Montrose Chemical Corp. of California, 50 F.3d 741, 746 (9th Cir.
6 1995). The Court does not have the authority to modify the Decree, but must either accept
7 or reject it as submitted. See Officers for Justice v. Civil Serv. Comm'n, 688 F.2d 615, 630
8 (9th Cir. 1982). All the while, the Court is mindful that the underlying purpose of the review
9 is to determine whether the decree adequately protects the public interest. See United States
10 v. BP Exploration & Oil Co., 167 F. Supp. 2d 1045, 1049 (N.D. Ind. 2001).

11 The Decree provides that Defendants will conduct all necessary investigatory and
12 remedial activities at the Phoenix-Goodyear Airport (North) Superfund Site (the "Site") in
13 Goodyear, Arizona. In addition, it provides that Defendants will pay \$6.7 million to
14 reimburse the United States for its past costs and provides for payment of future response
15 costs. Further, to resolve the United States' claims for civil penalties and punitive damages
16 for failure to comply with the unilateral administrative orders, it requires Defendants to pay
17 a civil penalty of \$500,000 and perform a Brownfields Inventory, Assessment, and
18 Remediation Supplemental Environmental Project within the City of Goodyear, Arizona,
19 valued at \$1 million. See Memorandum In Support of Motion To Enter Partial Consent
20 Decree p. 3 (Doc. #75). Thus, on its face, the Decree addresses the hazards to the
21 environment and public health in that it requires Defendants to perform the remedy selected
22 by the Environmental Protection Agency to address the releases and threatened releases of
23 hazardous substances at the Site. The proposed Decree serves the Comprehensive
24 Environmental Response, Compensation, and Liability Act's ("CERCLA") goals by ensuring

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27 After considering these comments, the United States concluded that they "do not raise issues
28 that would cause it to withdraw its consent to the Decree" and proceeded to seek entry of the
Decree by the Court. Id.


1 remediation of the Site and providing for the reimbursement of the United States' response
2 costs.

3 Having considered the proposed decree and supporting documents, the Court finds
4 that this standard has been satisfied. As such, the parties' Motion will be granted, and the
5 Decree entered.

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7 Accordingly,

8 IT IS ORDERED that the United States' Unopposed Motion For Entry of the Partial
9 Consent Decree (Doc. # 75) is granted. The Clerk of Court is directed to file the Partial
10 Consent Decree lodged on April 11, 2006 (Doc. #71, 72).

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12 DATED this 27 day of June, 2006.

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16 Roslyn O. Silver
United States District Judge
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